

SERVICE DATE - MAY 31, 2000

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
— CONTROL AND OPERATING LEASES/AGREEMENTS —
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 153

Decided: May 24, 2000

Environmental Condition No. 8(A) of Appendix Q of Decision No. 89¹ (Decision No. 89, slip op. at 393-94), requires Applicants, in order to address potential safety impacts at highway/rail at-grade crossings, to upgrade existing warning devices at 86 public highway/rail at-grade crossings as listed in the decision. As pertinent here, NS is required to install “Flashing Lights” at the at-grade crossing at Loomis Street in Chautauqua County, Ripley, NY. See Decision No. 89, slip op. at 398. Alternatively, as provided in Environmental Condition No. 8(A), NS may satisfy this requirement by entering into a negotiated agreement with the affected local jurisdiction and the state department of transportation to provide for alternative safety improvements in the vicinity of the identified highway/rail at-grade crossing that achieve at least an equivalent level of safety enhancement. Environmental Condition No. 8(A) requires compliance with this provision within 2 years of the effective date of Decision No. 89, or by August 22, 2000.

By letter received April 20, 2000, NS has requested a 1-year extension of the deadline provided for in Environmental Condition No. 8(A), until August 22, 2001. According to NS, it has recently been apprised by the New York Department of Transportation (NYDOT) that, following public input from the citizens of Ripley and state evaluation of the Loomis Street at-grade crossing, the preferred alternative is to close this crossing. NS further states that NYDOT has asked NS to refrain from installing any improvements at this grade crossing while it makes the necessary preparations to issue a closure order. NS advises that NYDOT is planning a Regulatory Hearing seeking to close and remove the affected Loomis Street grade crossing on the NS rail line and that, following the hearing, the state expects that a decision and order to

¹ In Decision No. 89, served July 23, 1998, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively, Conrail) and the division of Conrail’s assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

close the Loomis Street grade crossing will be issued.² NS states that, because the precise schedule for the NYDOT issuance of such an order is uncertain, it is seeking the 1-year extension of time to complete a negotiated agreement with the Town of Ripley and NYDOT which will provide for the grade crossing as an alternative to the installation of flashing lights.

The request for a 1-year extension to August 22, 2001, is reasonable. The revised deadline will therefore be adopted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The compliance deadline for NS in Environmental Condition No. 8(A) of Appendix Q of Decision No. 89 with respect to the Loomis Street grade crossing in Chautauqua County, Ripley, NY, is extended 1 year until August 22, 2001.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

² NS enclosed a copy of a letter dated December 15, 1999, from Clarence W. Scott, Director, Intermodal Projects, NYDOT, concerning the Regulatory Hearing.